

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BASAALY SAEED MOALIN;
MOHAMED MOHAMED
MOHAMUD; ISSA DOREH; and
AHMED NASIR TAALIL
MOHAMUD,

Defendants.

CASE NO. 10cr4246 JM

ORDER DENYING JOINT MOTION
TO CONTINUE SENTENCING AND
FOR A SCHEDULING ORDER

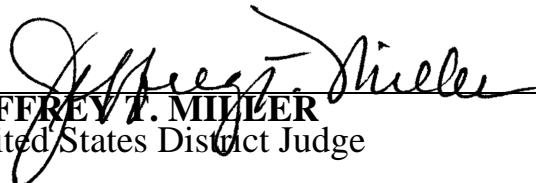
On August 28, 2013 counsel for Defendant Moalin filed a Joint Motion to Continue Sentencing and for a Scheduling Order (“Joint Motion”). The court denies the Joint Motion based upon the following considerations: first, following a jury verdict on February 22, 2013, the court originally calendared the sentencings and any Rule 33 motion for May 16, 2013, later continued by joint motion to June 27, 2013, and again continued by joint motion to September 16 and 30, 2013; second, the parties have been informed on multiple occasions that any Rule 33 motion would be calendared for hearing on the same date as the sentencings (R. T. February 22, 2013); third, the Joint Motion is not a joint motion as it is only executed by counsel for Defendant Moalin and the Government; fourth, to the extent the purported “new and novel issue” identified in the Joint Motion relates to electronic surveillance conducted by the National Security Agency, the court notes that the issue of electronic surveillance, in general and in some

1 particulars, has already been subject to judicial scrutiny (Ct. Dkt. 12, 119, 146); and
2 fifth, the Joint Motion fails to provide sufficient information from which the court is
3 able to conclude that good cause exists to grant the Joint Motion.

4 The Joint Motion is denied without prejudice, subject to a further showing to
5 address the court's above identified concerns. Any further joint motion for a
6 continuance must (1) provide for the submission of the parties' sentencing
7 memorandums at least two weeks before the Rule 33/sentencing hearing date, and (2)
8 calendar a continued motion/sentencing hearing date for September 30, 2013 with the
9 following briefing scheduling: Defendants to file any Rule 33 motion by September 5,
10 2013, the Government a response by September 18, 2013, and a reply brief by
11 September 23, 2013. Once the initial briefing on the Rule 33 motion is complete, the
12 parties are informed that the court may, in its discretion, sua sponte bifurcate the Rule
13 33 hearing from the sentencing hearing.

14 **IT IS SO ORDERED.**

15 DATED: August 29, 2013

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18 **JEFFREY T. MILLER**
United States District Judge

18 cc: All parties